THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2564 of 2007

Dated:11.06.2007

Between
Mohd Ghousuddin

.....Petitioner

and

1. The Depot Manager, APSRTC
Dilsukhnagar Depot,
Hyderabad.

…Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2564 of 2007

ORDER:

This writ petition is filed seeking a Mandamus to direct the respondent to pay the gratuity for the period from 19.4.1974 to 16.4.1985 i.e., from the date of removal till the date of reinstatement.

It appears that the petitioner while working as Conductor in the respondent-Andhra Pradesh State Road Transport Corporation, was removed from service on 19.4.1974. Aggrieved by the same, he raised an Industrial Dispute being I.D.No.228 of 1980 and the same was answered in his favour on 28.4.1984 directing his reinstatement with continuity of service and full back wages. Aggrieved thereby, the respondent-Corporation

filed W.P.No.3241 of 1985 and the same was dismissed on 21.3.1986. However, no appeal has been preferred by the respondent-Corporation against the said writ petition. Thereafter, the petitioner served the department till he attained the age of superannuation and retired from service on 30.4.2001.

The only grievance of the petitioner is that since the Labour Court has granted continuity of service with full back wages, he is also entitled for reckoning the period from 19.4.1974 to 16.4.1985 for the purpose of payment of gratuity etc.

In this regard, learned counsel for the petitioner relied on a Judgment reported in *M.Rama Rao Vs., Assistant Traffic Manager, APSRTC, Hyderabad* and another[1] wherein it was held that under Section 11 of the Industrial Disputes Act, 1947, where the Labour Court has set aside the order of removal of an employee and directed the employer to

reinstate the workman into service with continuity of service, the management could not deny the payment of gratuity to the employee-workman on his retirement for the period during which he was out of employment as a result of an illegal order of removal.

In view of the same, this writ petition is also liable to be allowed.

Accordingly, the writ petition is allowed and the respondent-Corporation is directed to compute the period from 19.4.1974 to 16.4.1985 for the purpose of payment of gratuity and pay the same to the petitioner within a period of three months from the date of receipt of a copy of this order. No costs.

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11-06-2007

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[1] 1998 (3) ALD 76